



Updates on Plant Variety Protection *Issue #2 -17 July 2013*

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1. Editorial: Second issue of APBREBES Newsletter - Updates on Plant Variety Protection – 17 July 2013

The first issue of the Updates on Plant Variety Protection and the new APBREBES website have met with much interest. This is not surprising, as the corporate push for stronger UPOV type plant variety protection rights is felt and resisted in many parts of the world. Feedback and further items for publication from our readers are welcomed and appreciated.

2. G8 pushes for multinationals' agenda in modernisation of African agriculture – 12 July 2013

The G8's "New Alliance for Food Security and Nutrition in Africa", established in 2012, is pushing further the corporate agenda on African agriculture. As of June 2013, cooperation frameworks have been concluded with [Benin](#), [Burkina Faso](#), [Cote d'Ivoire](#), [Ethiopia](#), [Ghana](#),

[Malawi](#), [Mozambique](#), [Nigeria](#) and [Tanzania](#)

(see also <https://www.gov.uk/government/organisations/department-for-international-development/series/the-new-alliance-for-food-security-and-nutrition-corporate-frameworks>).

All of them aim at improving the business environment for private sector investment, and most of these countries made commitments to pass and implement regionally harmonised seed legislation, including plant variety protection. Regional harmonisation will allow seed providers to acquire plant variety monopoly rights in all member states of economic communities such as ECOWAS, COMESA or SADC. The model is the European seed legislation, which for many decades has allowed in the market only varieties fulfilling the UPOV defined criteria of distinctness, uniformity and stability. Farm saved vegetable seeds have almost disappeared from the EU.

"[Modernising African Agriculture: Who Benefits?](#)" is a petition initiated by the African Center for Biosafety, signed by 191 organisations, networks and individuals, which points out how the G8 pushes the agenda of multinationals into African agriculture, at the expense of smallholder farmers, rural communities, and the food sovereignty of African citizens.

3. TWN: LDC TRIPS exemption approved with mixed reactions – 13 June 2013

On 11 June the World Trade Organisation (WTO) members adopted a decision for the world's poorest nations (known as "Least Developed Countries (LDCs)") to exercise their right to be exempted from implementing the organisation's intellectual property rights agreement (also known as "the TRIPS Agreement"). The exemption is until 1 July 2021 and is without prejudice to the right of LDCs to request an extension of the exemption, beyond 2021.

This decision of the TRIPS Council brings to an end months of uncertainty over the fate of the "duly motivated request" submitted by Haiti on behalf of the LDCs last November seeking an unconditional extension of the exemption (also known as "transition period") for as long as a country remains a LDC. The "duly motivated request" was submitted in accordance with Article 66.1 of the TRIPS Agreement) and received extensive support from UN agencies, civil society, industry association, legal academics etc.

With regard to plant varieties, the effect of the WTO decision is that LDCs need not provide protection of plant variety as required by Article 27.3(b) of the TRIPS Agreement for as long as the exemption/transition period continues.

[Article 66.1 of the TRIPS Agreement states: *"In view of the special needs and requirements of least-developed country Members, their economic, financial and administrative constraints, and their need for flexibility to create a viable technological base, such Members shall not be required to apply the provisions of this Agreement, other than Articles 3, 4 and 5, for a period of 10 years from the date of application as defined under paragraph 1 of Article 65. The Council for TRIPS shall, upon duly motivated request by a least-developed country Member, accord extensions of this period."*]

TWN published a [detailed news report](#) on the contentious points between

developed countries and LDCs, discussions that took place at the TRIPS Council, and reactions of NGOs/IGOs to the decision.

4. The French Council of Biotechnologies comments on the balance of PVP – 13 June 2013

The Economic, Social and Ethical Committee of the High Council of Biotechnologies (an authority for evaluation, expertise and consultation, established by law in 2008) in its [Recommendations on Intellectual Property](#), published on 12th June 2013, made several statements regarding the interpretation and further development of PVP law. It recommends to not integrate a temporary embargo of the breeders' exemption into future PVP laws, to consider void all contracts (like shrink-wrap licenses) which aim at prohibiting retro-engineering, and to allow the free multiplication of seeds (under the breeders' exemption) by farmers, if the farmer practises "evolutionary selection".

An unofficial translation of selected parts of the recommendations can be found [here](#) .

5. Dutch Minister supports a differentiated approach on PVP – 10 June 2013

In a [letter](#) issued on 20 September 2012 (now published in an unofficial [English translation](#)), Henk Bleker, the Dutch Minister for Agriculture and Foreign Trade, stated that "UPOV 1991 cannot be applied to all developing countries but that a different approach is desired." He further said that the Netherlands will "Urge for greater scope for the private and non commercial use exemption in UPOV 1991 than is currently the case. This will allow small farmers that use protected varieties to trade their surpluses on the market and exchange seed among themselves".

The letter was a reaction to the main conclusions and recommendations of the report entitled "Harnessing Intellectual Property Rights for Development Objectives". The report is available in an open access format [here](#) (Part 2 is on seeds).

Calendar of Events

- 24 to 28 September 2013: [5th Governing Body meeting](#) of International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) in Muscat, Oman
- 21 to 25 October 2013: [UPOV bodies](#) will meet in Geneva, Switzerland. Part of the session is a [seminar on Essentially Derived Varieties](#). It is scheduled for 22 October and will be open to the public.

See also the [Upcoming Events](#) on our website.

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You are welcome to forward this issue to other interested individuals and organisations.

Feedback & Contact

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